

**REMARKS**

This amendment is being filed in response to the Office Action mailed August 16, 2006. In that Office Action, claims 1-4, 8-13 and 17-20 were rejected under 35 U.S.C. §103(a) as being unpatentable over Alton (U.S. Application No. 2003/0190030) in view of Hind (U.S. Application No. 2005/0037755), and claims 5-7 and 14-16 were rejected under 35 U.S.C. §103(a) as being unpatentable over Alton as modified by Hind in further view of Carter (U.S. Application No. 2004/0152362). In light of the rejected claims being cancelled and for at least the reasons stated below, the Applicant respectfully asks the Examiner to consider and allow the newly added claims.

The Applicant respectfully points out that the filing date of the above-listed Hind reference (October 30, 2003) is after the filing date of the present application (October 23, 2003). Thus, only those sections of the Hind reference that are properly supported by the previously filed provisional application (60/422,124) in compliance with 35 U.S.C. §112, can be relied upon as prior art.

**Newly Added Claims 21-29 –**

Newly added claims 21-29 call for a method of selecting a wireless data channel for communication with a vehicle telematics unit that comprises the steps of: (a) receiving one or more user preference(s) pertaining to usability characteristics of a wireless data channel, and (b) ranking a first plurality of wireless data channels from most preferred to least preferred, wherein the ranking is based primarily on the one or more user preference(s); these steps are not taught in any of the applied prior art references. Beginning with Alton, this reference discloses a method for controlling the deactivation of a telecommunications modem based on a call type, independent of connection quality, to minimize power consumption. As recognized by the Examiner in the previous Office Action, Alton does not disclose steps for selecting a wireless data channel in the manner taught in the present application.

Hind does, however, disclose certain techniques for selecting a communications network, but those techniques differ from that recited in the newly added claims for a number of reasons. First, Hind fails to teach ranking wireless data channels from most preferred to least preferred based primarily on one or more user preference(s) *that pertain to usability characteristics of a wireless data channel*, as recited in claim 21. Instead, Hind describes a method that uses various lists, which can be either automatically or manually created, to select a wireless network *based on the services (voice, data, voice and data, etc.) that that network provides* as opposed to simply selecting a wireless network based on its signal strength, as was conventionally done. Referring now to the written description in Hind, it states;

In conventional GSM operation, mobile station 115 would compare all networks from which received signals are above any minimum required signal strength level and match them against the top-most network found in the PPLMN. .... However, this process ignores the fact that mobile station 115 might also be data-capable. The choice of Local Network 4225, which does not support data communications, may therefore not always be optimal for mobile station 115.<sup>1</sup>

The rescanning process provides an opportunity for a mobile station to find a network that is known or offers better services to the mobile station user. A network offering better services could be considered in order of decreasing capability to be: a known voice and data network, a known voice-only network, an unknown voice-data network, and finally an unknown voice-only network.<sup>2</sup>

To illustrate, the mobile device may provide an end-user with features offered via communication networks which include, but are not limited to, a voice communication service, an electronic mail (e-mail) service, a short messaging service (SMS), an Internet access service, a private Intranet access service, a wireless application protocol (WAP) service, a local data facilitating service, a home data facilitating service, and application-specific data services such as a weather service, a horoscope service, and a stock market quotations service. Additional services may be distinguished by the relative quality differences between otherwise similar services, for example, a high-speed Internet service versus a low-speed Internet service.<sup>3</sup>

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<sup>1</sup> US Patent Application Publication No. 2005/0037755 A1 (Hind); page 6, paragraph [0055]

<sup>2</sup> See Id at page 8, paragraph [0074]

<sup>3</sup> See Id at page 9, paragraph [0084]

Put differently, the embodiments described in the foregoing passages select networks principally by considering the types of services that they provide, whereas the method recited in claim 21 ranks wireless data channels primarily based one or more user preferences pertaining to the usability characteristics of those channels. Even in Hind's last embodiment where additional criteria such as Internet speed is used to distinguish between otherwise similar services, it is the available services provided by the networks that primarily determines which network will be selected.

Second, the Hind publication does not teach a method that *receives user preferences* pertaining to usability characteristics of a wireless data channel and *ranks wireless data channels based on those user preferences*, as stated in claim 21. Hind does disclose an embodiment where "...the network can preferably still be used in response to a confirmation by a mobile station user, through a dialog box for example, as to which network should be used."<sup>4</sup> However, enabling a user to choose between networks that have already been identified is different than receiving user preferences that go into the ranking process. The Hind publication also discloses an embodiment where an end-user can program service priorities via a user interface; but as pointed out above, this leads to a services-based network selection and not a usability characteristics-based wireless data channel selection, as recited in claim 21.

For at least the foregoing reasons, the Applicant respectfully asserts that the newly submitted claims are in condition for allowance and therefore asks the Examiner to allow independent claim 21 and dependent claims 22-29.

In addition, dependent claim 24 recites "...monitoring for additional wireless data channels *at a periodic rate that is effectively in real-time*," claim 25 states "...step (a) further comprises ranking a first plurality of wireless data channels based on one or more user preference(s) *that are stored at the vehicle telematics unit and are entered remotely over a wireless network*," and claim 28 requires that "...at least one of the wireless data channels *is associated with a network that is selected from the list consisting of: a Wi-Fi network, a satellite radio network and a cellular network*." These limitations are neither

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<sup>4</sup> See Id at page 5, paragraph [0047]

disclosed nor suggested in the cited references and therefore constitute additional reasons for allowing these claims.

Independent claim 30 recites a method of selecting a wireless data channel for communication with a vehicle that is also patentable over the cited prior art. In addition to some of the distinctions explained above, claim 30 calls for "...receiving one or more user preference(s) pertaining to usability characteristics of a wireless data channel, the user preference(s) are entered by a user through a website and are wirelessly transmitted to the vehicle." This feature is neither disclosed nor suggested in the applied references.

Therefore, Applicants respectfully submit that all claims are allowable over the prior art and reconsideration is therefore requested. The Examiner is invited to telephone the undersigned if doing so would advance prosecution of this case.

The Commissioner is hereby authorized to charge Deposit Account No. 07-0960 for any required fees, or to credit that same deposit account with any overpayment associated with this communication.

Respectfully submitted,

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